

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA, : Case No. 3:12-cr-153
: :
vs. : Judge Timothy S. Black
: :
ENRIQUE BERNARDINO-MURILLO, :
: :
Defendant. : :

NOTICE OF CHANGE OF PLEA HEARING

This criminal case is before the Court on Defendant's Motion for a Change of Plea Hearing, in which Defendant represents an intent to withdraw his not guilty plea and to enter a guilty plea to the crime charged. (Doc. 14). Based on Defendant's Motion, the Court **VACATES** the trial previously set for February 25, 2013 and sets a change of plea hearing on February 21, 2013 at 11:00 a.m. in Dayton Courtroom #3.

"A notice of change of plea is a motion requiring a hearing, and as a result, the time from the filing of the notice of hearing through the conclusion of the plea hearing is excludable" from speedy trial calculation. *United States v. Moss*, 211 F.3d 1271 (6th Cir. 2000) (citing *United States v. Jenkins*, 92 F.3d 430, 440 (6th Cir. 1996) (stating that "defendant's notice of intent to change plea tolls clock")); *see also United States v. Mentz*, 840 F.2d 315, 330-32 (6th Cir. 1988); *Coviello v. United States*, 287 Fed. Appx. 503, 507 (6th Cir. 2008); *United States v. Beals*, 755 F.Supp.2d 757, 763 (S.D. Miss. Nov. 8, 2010) (stating that "[a] change of plea is treated like a motion for Speedy Trial Act purposes, and since a hearing is required for the court to take a change of plea, the speedy trial clock is tolled from the date the court is notified of the change of plea at least until the date of the hearing").

Accordingly, the time between February 8, 2013 and February 21, 2013 is excluded from the time period set forth in 18 U.S.C. § 3161 within which the United States must bring Defendant to trial.

IT IS SO ORDERED.

Date: 2/13/13

Timothy S. Black
Timothy S. Black
United States District Judge